

## **REMARKS**

This Request for Reconsideration is offered in response to the Office Action of September 21, 2004.

With respect to the provisional obviousness-type double patenting rejection, the Applicant respectfully requests that this rejection be deferred. The Applicant will file terminal disclaimers, if necessary, after the applications are otherwise in condition for allowance.

The Office Action rejects Claims 34-37 and 39-45 under 35 U.S.C. §102(e) as being anticipated by the Strand reference (U.S. Patent No. 6,360,513). Likewise, Office Action rejects Claims 38 and 46 under 35 U.S.C. §103(a) as being obvious over the Strand reference. A Rule 131 Declaration to “swear behind” the Strand reference (which has an effective priority date ten days prior to the effective filing date of the present application) is enclosed. It is therefore respectfully submitted that these rejections are overcome.

Further, it is noted that application serial no. 10/216,881, the parent application of the present application, has copied claims from the Strand reference for the purpose of provoking an interference.

The Office Action rejects Claims 34-37, 39 and 41-45 under 35 U.S.C. §102(e) as being anticipated by the Herber reference (U.S. Patent No. 5,519,982) and similarly rejects Claims 34-46 under 35 U.S.C. §103(a) as being obvious over the Herber reference in view of the Gilbert reference (United Kingdom Patent No. 2,085,519) or the Gilbert reference in view of the Herber reference. At the outset, the Applicant objects to the statement that “little patentable weight is given to the presence of the zipper on the slider since no manipulative steps are set forth in these claims regarding the slider”. At a minimum, such as absence of a claimed element should preclude an anticipation rejection under 35 U.S.C. §102. Further, the presence of a slider is not

an inconsequential matter with respect to the design of a reclosable bag. In the Herber reference, for instance, in Figs. 3, 4 and 5, the entire base of the profiles is sealed to the web of the bag. There is nothing in the Herber reference or the Gilbert reference which would disclose or suggest the modification of the Herber reference to change the profile structure in order to accommodate a slider.

It is therefore respectfully submitted that the above rejections with respect to Herber and Gilbert are overcome.

It is therefore respectfully submitted that all rejections have been overcome.

In view of the above, each of the claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to early issue.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ronald E. Brown", with a stylized flourish at the end.

Ronald E. Brown  
Registration No. 32,200

Pitney Hardin LLP  
7 Times Square  
New York, New York 10036-7311  
212-297-5800